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21 **UNITED STATES DISTRICT COURT**

22 **NORTHERN DISTRICT OF CALIFORNIA**

23 DALI WIRELESS, INC.,
24 Plaintiff,
25 v.
26 CORNING OPTICAL COMMUNICATIONS
27 LLC,
28 Defendant.

29 Case No: 3:20-cv-06469-EMC

30 **JOINT NOTICE OF MOTION AND
31 MOTION TO FURTHER EXTEND
32 DEADLINE TO MOVE TO COMPEL
33 RESPONSES TO FACT DISCOVERY**

1 **I. NOTICE OF MOTION AND MOTION FOR CASE MANAGEMENT SCHEDULE**

2 Plaintiff Dali Wireless, Inc. (“Dali”) and Defendant Corning Optical Communications, LLC
 3 (“Corning”) hereby jointly move under Civil L.R. 7-11 for and Civil L.R. 16-2(d) for a brief extension
 4 of the deadline to move to compel fact discovery as follows. The parties acknowledge that they have
 5 read and understand the Court’s Civil Standing Order on Discovery, in particular the procedure laid out
 6 in Section 4 thereof. The parties are not presently aware of any need to file a motion to compel, but to
 7 avoid prejudice arising from the need to schedule certain depositions after the close of fact discovery,
 8 the parties respectfully request a brief extension on the deadline to file a motion to compel without
 9 otherwise moving the close of fact discovery.

10 Fact discovery closed on November 22, 2021. *See* ECF No. 108. Under Civil L.R. 37-3, where—
 11 as here—“the Court has set separate deadlines for fact and expert discovery, no motions to compel fact
 12 discovery may be filed more than 7 days after the fact discovery cut-off, and no motions to compel expert
 13 discovery may be filed more than 7 days after the expert discovery cut-off.” The Court previously moved
 14 the deadline to file motions to compel fact discovery to December 21, 2021; January 21, 2022; February
 15 21, 2022; and March 18, 2022. *See* ECF Nos. 118, 120, 122, and 126.

16 The parties respectfully request that the Court allow the parties until April 22, 2022, to file a
 17 motion to compel fact discovery, if such motion proves to be necessary, only arising from or relating to
 18 the pending depositions and discovery issues that are the subject of currently pending meet and confer
 19 between the parties. The following are the only pending depositions of Corning employees: Gajen
 20 Mahendran, Syed N. Ahmad.¹ Mr. Mahendran is scheduled to be deposed on April 8, 2022, and Mr.
 21 Ahmad is scheduled to be deposed on April 14, 2022. Good cause exists for the parties’ request because,
 22 to accommodate the availability of various fact witnesses and to allow Corning time to fully comply with
 23 its document production obligations, the parties have mutually agreed to schedule fact depositions after
 24 the close of fact discovery, and at least two depositions remain to be taken. Because the two remaining
 25 Corning witnesses who have yet to have their depositions taken are Rule 30(b)(6) witnesses, and to

26
 27 ¹ In addition, Dali has served third party subpoenas on Verizon and AT&T, and has met and conferred
 28 with Corning regarding the potential need to depose Verizon and AT&T corporate witnesses to the extent
 Mr. Mahendran’s and Mr. Ahmad’s deposition testimony fails to resolve certain inconsistencies that Dali
 believes exist in the present record.

1 preserve the parties' ability to seek documents identified in connection with forthcoming depositions,
2 the parties jointly submit this request for a brief extension on the deadline to file a motion to compel
3 without otherwise moving the close of fact discovery.

4 **II. CONCLUSION**

5 The parties respectfully request that the Court enter an order extending the deadline to move to
6 compel fact discovery to April 22, 2022, only arising from or relating to the pending depositions and
7 discovery issues that are the subject of currently pending meet and confer between the parties.

8

9 Dated: March 17, 2022

10 By: s/Stefan Szpajda

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